

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

UNITED STATES OF AMERICA

V.

JAMES CRAWFORD,

Defendant.

Case No. 2:03CR10084-003

OPINION AND ORDER

By: James P. Jones
United States District Judge

Whitney D. Pierce, Assistant United States Attorney, Abingdon, Virginia, for United States; Nancy C. Dickenson-Vicars, Assistant Federal Public Defender, Abingdon, Virginia, for Defendant.

The court previously denied the defendant's motion seeking compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). Op. & Order, May 19, 2020, ECF No. 250. The defendant moved for reconsideration, and I denied that motion as well. Op. & Order, June 12, 2020, ECF No. 254. On January 22, 2021, the defendant, by counsel, filed a second motion for reconsideration, which I will deny for the following reasons.

Crawford is 39 years old, and the Bureau of Prisons lists his projected release date as March 2, 2022. His counsel represents that he will be eligible for home confinement in late August of this year, just four months from now. The facts

underlying Crawford's conviction and sentence are set forth in my Opinion and Order denying his earlier motion for reconsideration, ECF No. 254.

Since that decision, in December 2020, Crawford tested positive for COVID-19. While he states that he continues to experience symptoms, the Bureau of Prisons (BOP) indicated that his infection had resolved as of January 6, 2021. Crawford complains that he received inadequate medical care while actively infected with COVID-19 and that he continues to receive inadequate treatment for his ongoing symptoms. Crawford has asthma¹ and high blood pressure, conditions that might increase his risk of severe complications from COVID-19. The record does not indicate, however, that he actually experienced severe complications from the disease. He notes that while reinfections are rare, there is some evidence that they are becoming more common due to newly circulating variants of the SARS-CoV-2 virus, and recent data suggest that vaccines may be somewhat less effective against these more contagious variants.

Crawford argues that in the wake of the Fourth Circuit's decision in *United States v. McCoy*, 981 F.3d 271 (4th Cir. 2020), I can grant compassionate release for expanded reasons. He urges me to grant his motion due to the state of his health in

¹ I previously noted that he takes medication for his asthma and that "his asthma is mild to moderate, controlled with medication, and does not prevent him from playing basketball or engaging in other physical activities." Op. & Order 1-2, May 19, 2020, ECF No. 250.

combination with the fact that he has served more time than originally intended due to the procedural glitch discussed in my June 12, 2020 Opinion and Order.

While I am sympathetic to Crawford's experience with COVID-19, the new information provided is not sufficient to cause the court to change its prior decision. Currently available data indicates that while it is possible for a person to who has already had COVID-19 to become reinfected, reinfection is rare. Centers for Disease Control & Prevention, *Reinfection with COVID-19* (Oct. 27, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/your-health/reinfection.html>. The available evidence suggests that most people who have had COVID-19 have a significant level of immunity for at least eight months following their recovery. Nat'l Inst. Health, *Lasting immunity found after recovery from COVID-19* (Jan. 26, 2021), <https://www.nih.gov/news-events/nih-research-matters/lasting-immunity-found-after-recovery-covid-19>.

Crawford is housed at FCI Hazelton. As of April 18, 2021, the Bureau of Prisons (BOP) reports that 1138 inmates at FCC Hazelton (which includes both FCI Hazelton and USP Hazelton) have been fully vaccinated against COVID-19, along with 369 staff members. Fed. Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last visited April 18, 2021). The BOP's efforts at curtailing the virus's spread appear successful; as of this date, FCI Hazelton is reporting only one active COVID-19 case among inmates and zero active cases among staff. *Id.* While the parties

have not indicated whether Crawford himself has been vaccinated wholly or partially, it is clear that vaccinations are being made available to inmates at his facility. If he has not yet received a vaccine, he will soon have the opportunity to receive one.

Crawford's fear of reinfection is understandable given his previous bout of COVID-19 and lingering symptoms, but that fear alone does not create an extraordinary and compelling reason for early release. I do not have sufficient evidence before me to conclude that he is receiving inadequate medical care at FCI Hazelton. And nothing about the *McCoy* decision affects my prior rulings denying relief due to the BOP's failure to grant him credit for his state sentence. My reasons for doing so remain the same.

For these reasons, it is **ORDERED** that the defendant's motion, ECF No. 264, is DENIED.

ENTER: April 19, 2021

/s/ JAMES P. JONES

United States District Judge